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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/735,408

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Ronald K. Yamamoto

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EXAMINER

BOUCHELLE, LAURA A

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

06/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Amendment

1. The reply filed on 10/21/08 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):
2. Newly submitted claims 78-141 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally filed claims included a locating means and a microsurgical device coupled to the locating means. The location data was used to advance the microsurgical device to a tissue space.
3. The newly filed claims include a locating device, a microsurgical device, and a surgical access device physically coupled to the locating device for guiding the microsurgical device in relation to the locating device.
4. These claims comprise distinct inventions for the following reasons: The surgical access device is a new feature that was not required by the originally filed claims. The location device of the originally filed claims need only be coupled to the microsurgical device, which may include any type of coupling known in the art including a wired coupling, a wireless coupling, a physical coupling, etc., which is distinct from being *physically coupled* to the surgical access device. In the originally filed claims, it was not specified *how* the location data was used to advance the microsurgical device. A clinician could view the location data and manually advance the microsurgical device using that data. The newly filed claims require the surgical access device to guide the microsurgical device using the location data. For all these reasons, the newly claimed invention is distinct from the originally filed invention.
5. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution

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on the merits. Accordingly, claims 78-141 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

6. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/

Laura A Bouchelle

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Supervisory Patent Examiner, Art Unit 3763

Examiner
Art Unit 3763

/Laura A Bouchelle/
Examiner, Art Unit 3763